

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

ROBERT ARTHUR KENT, JR.,

Plaintiff,

v.

1:14-cv-943-WSD

**DR. MARTIN, Atlanta USP –
Medical Director, DR. GONZALEZ,
Atlanta USP – Psychiatric Doctor,
UNITED STATES OF AMERICA,
AND DR. JAMES WINSTON,
Former Clinical Director,**

Defendants.

OPINION AND ORDER

This matter is before the Court on Magistrate Judge Alan J. Baverman's Final Report and Recommendation [18] ("R&R"). The R&R considers Plaintiff Robert Arthur Kent, Jr.'s ("Plaintiff") Complaint [1] ("Complaint"). The Magistrate Judge recommended that Plaintiff's Complaint be dismissed without prejudice for failure to comply with the Magistrate Judge's August 14, 2014, Order [15]. Also before the Court is Plaintiff's Application for Leave to Proceed *in forma pauperis* [22] and Motion to Obtain Photostatic Copies [23].

I. BACKGROUND

On March 31, 2014, Plaintiff filed his Complaint, asserting claims under the Federal Tort Claims Act (“FTCA”) against the United States and several officials and medical personnel at the United States Penitentiary in Atlanta, Georgia. On May 23, 2014, the Magistrate Judge granted [7] Plaintiff request to proceed *in forma pauperis* (“IFP”).

On June 26, 2014, the Magistrate Judge screened Plaintiff’s Complaint pursuant to 28 U.S.C. § 1915A, and recommended [8] that (1) Plaintiff’s FTCA medical malpractice claims against Dr. Winston, Dr. Martin, and Dr. Gonzalez be allowed to proceed; and (2) Plaintiff’s Complaint against Drew and Hollinger be dismissed for failure to state a claim upon which relief may be granted. On July 18, 2014, the Court adopted [12] the Magistrate Judge’s recommendations.

On July 22, 2014, the Magistrate Judge ordered [13] Plaintiff to complete the USM 285 forms and summonses for the United States Attorney General and the United States Attorney for the Northern District of Georgia. On August 14, 2014, the Magistrate Judge ordered [15] Plaintiff to complete the USM 285 forms and summonses on or before August 28, 2014, and warned Plaintiff that the failure to do so would result in a recommendation that this action be dismissed.

Plaintiff did not comply with the Magistrate Judge's August 14, 2014, Order. On September 12, 2014, the Magistrate Judge recommended that the Court dismiss Plaintiff's Complaint for failure to comply with the August 14, 2014, Order. (R&R at 2). Plaintiff did not file any objections to the R&R.

On April 7, 2015, Plaintiff filed his second Application for Leave to Proceed *in forma pauperis*¹ and Motion to Obtain Photostatic Copies.

II. DISCUSSION

A. Legal Standard

After conducting a careful and complete review of the findings and recommendations, a district judge may accept, reject, or modify a magistrate judge's report and recommendation. 28 U.S.C. § 636(b)(1); Williams v. Wainwright, 681 F.2d 732, 732 (11th Cir. 1982), cert denied, 459 U.S. 1112 (1983). A district judge "shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1). With respect to those findings and recommendations to which a party has not asserted objections, the district judge must conduct a plain error review of the record. United States v. Slay, 714 F.2d 1093, 1095 (11th Cir. 1983).

¹ It is unclear why Plaintiff filed a second IFP application when the Magistrate Judge has already authorized Plaintiff to proceed IFP.

B. Analysis

As Plaintiff has not objected to the Magistrate Judge's R&R, the Court reviews the Magistrate Judge's findings and recommendations for plain error. See Slay 714 F.2d at 1095. The Magistrate Judge found that Plaintiff failed to comply with the August 14, 2014, Order, and properly recommended that the Court dismiss Plaintiff's Complaint. See LR 41.3(A)(2), NDGa. The Court finds no plain error in Magistrate Judge's findings and recommendation. See Slay, 714 F.2d at 1095.

III. CONCLUSION


For the foregoing reasons,

IT IS HEREBY ORDERED that Magistrate Judge Alan J. Baverman's Final Report and Recommendation [18] is **ADOPTED**.

IT IS FURTHER ORDERED that Plaintiff's Complaint [1] is **DISMISSED WITHOUT PREJUDICE**.

IT IS FURTHER ORDERED that Plaintiff's Application for Leave to Proceed *in forma pauperis* [22] and Motion to Obtain Photostatic Copies [23] are **DENIED AS MOOT**.

SO ORDERED this 18th day of May, 2015.



WILLIAM S. DUFFEY, JR.
UNITED STATES DISTRICT JUDGE